



May 9, 2016

Dear Members of the PSC,

The Hosford-Abernethy Neighborhood Association (HAND) wishes to testify about regulation 33.130.100 B 2 c, which adds a limitation to the CM1 zone for sites less than 7,500 sq. ft. that abut properties that are in a single family zone, and are operating as Retail Sales and Service. The proposed rule would limit hours of operation to 6AM - 11PM.

We strongly support adding specific limitations for commercial sites in primarily residential areas, and have requested such limitations be codified in previous testimony. However we believe the current proposal is lacking in some fundamental ways. In HAND, we have three sites that would be affected by these rules, all of which are currently zoned residential and have non-conforming commercial uses. Neighbors of these sites currently have protections against noise, redevelopment, and increased impacts that they stand to lose under the new rules.

- Existing regulations limit daytime noise emitted from non-conforming residential sites as measured on the property line of the nearest residential receiver to 55dBA (nighttime noise limits are lower) [City of Portland Charter Chapter 18.10.010], however if these properties are granted commercial status, permissible noise levels will increase to 60dBA. Given that a 10dBA increase represents a doubling of perceived volume, 5dBA is a significant increase. The code should specify that isolated commercial sites such as these have the same noise emission limits as residential sites, which is the rule today for non-conforming properties.
- With commercial zoning, it would be possible to redevelop these sites for high-density residential use with no commercial elements at all, an ironic outcome given that the stated reason for making them commercial is to retain commercial use on these sites so they can continue providing services to the surrounding residential areas. We want the zoning rules to require that, at a minimum, the ground floor must remain in commercial use should the site be redeveloped. An alternative might be to specify that should these sites be developed as entirely residential, the permitted density would be that of the highest density adjacent residential zone. Without one of these proposals, we fear development pressure might cause the loss of the commercial function that is critical to maintaining a livable community.
- There are currently restrictions on change-of-use that would trigger review if the cumulative impacts of a site increase. This restriction is important to ensure a change in use would remain compatible with a neighborhood setting. This existing review mechanism should be added back to the zoning code. As an example, nearby residents

are concerned that the quiet naturopathic office on SE Clinton currently in non-conforming use might someday be bought and converted into a rowdy karaoke bar, which would be possible under the proposed rules. While this is an extreme example, it highlights the significant impact that a single isolated commercial property can have on its neighbors.

- The proposed rules should apply to all commercial uses, not just Retail Sales and Service. The intent here is to limit nighttime noise and activity and to limit other impacts to neighbors from these sites; we believe these rules should apply to all commercial uses.

One other major shortcoming of the proposal as it stands is that it only affects properties adjacent to single family zones. This should be changed to include any residential zone; we firmly believe that all residential uses should enjoy the protections this rule is intended to convey, especially now that home ownership is financially out of reach for many households in Portland. HAND has one site (1540 SE Clinton St.) that meets the size criteria for the new commercial zoning rules, but is zoned R1/R2, which means the new rules would not apply to this site as it is surrounded by multi-family zoning.

The code would be simpler to apply and understand if you were to recommend creation of a new zoning category, perhaps called CM0, that could be applied to small, isolated commercial sites such as these. It would be more clear if designated properties could be given the CM0 designation outright, rather than having special rules within the CM1 zone that applied only to certain properties under certain conditions.

We would like to clarify that we are not opposed to commercial uses' being interspersed throughout residential neighborhoods. Quite the contrary, we greatly appreciate the benefit that commercial properties can provide to their neighbors, and the role they play in helping to create livable neighborhoods. Rather, we want to ensure that these commercial properties can exist harmoniously with their residential neighbors, and are requesting these rule changes toward that goal.

Whether with a CM0 or CM1 designation, we ask that the proposed zoning rules be updated to include the additional restrictions that are in place today for non-conforming commercial properties. These rules have long worked well for businesses and residents alike. The unique relationship between residential areas and the isolated commercial sites embedded within them requires different rules than are needed for larger commercial areas.

Thank you,

Susan E. Pearce  
Hosford-Abernethy Neighborhood Association Chair